

13-11-11 Chancery Causes: *Continental v. Commission* [1968] 1 W.L.R. 1033. *Continental v. Commission* [1968] 1 W.L.R. 1033. *Continental v. Commission* [1968] 1 W.L.R. 1033.

1 To the Hon. H. S. K. Morrison, Judge of the
2 Circuit Court for Lee County, Virginia,

3 Your orator Andrew J. Thompson
4 and your oratrix Flora Thompson,
5 who sue for the benefit of J. P. Herndon,
6 humbly complaining, would respectfully
7 represent unto your honor that on the
8 14th day of Oct., 1890, they sold and con-
9 veyed by deed of said date, for the
10 price of \$270.00, to The Crab Orchard
11 Coal and Iron Company, a corporation
12 formed and existing under and by
13 virtue of the laws of the State of Virginia,
14 a one-ninth undivided interest in the
15 real estate of Elijah Pennington dec'd,
16 situate in Lee County, Virginia, which
17 said tract of land and the terms of
18 said sale are fully and particularly
19 set out and described in said deed, which
20 is recorded in the clerk's office of the County
21 Court for Lee County, Virginia, in Deed
22 Book 26, page 103. A copy of said deed
23 is herewith filed marked "A" and pray-
24 ed to be considered as part hereof.

25 Your orator and oratrix will now show
26 your honor that at the time of the exe-
27 cution of said deed of conveyance, there
28 was paid down to them the sum of \$135⁰⁰/₁₀₀
29 of the purchase money of said land;
30 that for the residue thereof of \$135⁰⁰/₁₀₀
31 the said Company executed its note
32 bearing even date with said deed,

1 payable twelve months after date - and
2 with six per cent interest after the date
3 of maturity. Said note is signed by
4 the said Company by H. H. James, Secre-
5 tary and General Manager, under his
6 seal. Said note is herewith filed mark-
7 ed "B," and prayed to be considered to
8 be considered as part hereof.

9 Your orator and oratrix will now
10 show your honor that by an endorse-
11 ment of their names on said note they
12 assigned the same to one J. P. Herndon,
13 who is now the equitable owner thereof,
14 and the beneficial plaintiff in this suit,
15 and is entitled to receive the full amount
16 of said note with interest as aforesaid.

17 Your orator and oratrix will now
18 show your honor that by an inspec-
19 tion of said copy of said deed, that
20 they retained the vendors lien on the face
21 of said deed on said tract of land to
22 secure the payment of \$135⁰⁰, the amt.
23 of said note and the deferred part of
24 the purchase money for said tract
25 of land, with interest as aforesaid.

26 Your orator and oratrix will now
27 show your honor that no part of said
28 note has ever been paid to them or to
29 either of them, or to the beneficial plain-
30 tiff, but the same is due and wholly un-
31 paid, and that the said beneficial plain-
32 tiff is entitled to the whole amount thereof

1 with interest thereon as aforesaid.

2 The object, therefore, of this bill is to
3 enforce said vendors lien on said
4 tract of land, and to have the same
5 sold, or so much thereof sold, as may
6 be necessary to pay said note, in-
7 terest and costs.

8 Your orator and oratrix file herewith
9 their deed of release which is intended
10 to be delivered to said company on
11 its payment of said note, interest
12 and costs.

13 The prayer of your orator and
14 oratrix, therefore, is, that The Great
15 Orchard Coal and Iron Company, a
16 corporation formed and existing
17 under and by virtue of the laws of
18 the state of Virginia, be made a par-
19 ty-defendant to this bill and answer
20 the same, but it need not do so on
21 oath, that being expressly waived; that
22 said vendors lien be enforced, and said
23 tract of land, or so much thereof as
24 may be necessary, be sold to pay
25 said note, with interest as afore-
26 said, and the costs of this suit, and
27 that the proceeds of said note be paid to J. P. Her-
28 don their assignee and beneficial plaintiff.
29 And that all such other, further, and general
30 relief may be granted them as good conscience
31 and the nature of their case requires. May
32 Sp. issue &c. And they will ever pray &c.

Pennington & Lewis,
P. G.

1 P. & G.

C 11.70
S 50
A 15.00
Estimate 5-33
31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

A. J. Thompson et al

\$32.20

vs Bill- Chancery
The Crab Orchard
Coal & Iron Co.

\$185932

Bid off by N. H. ...
at \$185932.
Sept. 19, 1892
A. M. Gurns

1873 2nd May Rules Bill
filed Sp. Ed. & D. ...
" 1st June Rules taken
out Monday in Mass
1892 L. W. ...
" June Decree ...
" Dec. & ...
" Over no count
1893 March ...
" June Decree ...
Q.B. 4992500



City of Bristol, Va., *Sept 18th*, 189*0*

Office of the Crab Orchard Coal and Iron Co.,

Twelve Months after date the "Crab Orchard Coal and Iron Company," promise to pay

Andrew S. Thompson & Flora Thompson
the sum of *One Hundred & Thirty* Dollars,

with six per cent interest after maturity, at the Company's Office in the city of Bristol, Virginia it being the *cash* payment on land this day sold and conveyed to said Company, and for value received. In witness whereof the Crab Orchard Coal & Iron Company has caused these presents to be signed by W. W. James, the Secretary and General Manager of said Company, and the said W. W. James has hereunto set his hand and seal the day and year first above written.

The Crab Orchard Coal and Iron Company,

By *W. W. James* (SEAL.)

Secretary and General Manager.

Andrew J. Thompson
Flora Thompson

"B"

A. J. Thompson et al for & Campbell

v. S.

(In Chancery)

The Court Richard Coal & Iron Co. Defs.)

This Cause came on again this day to be heard upon the papers formerly read therein and the report of H. M. Goins who was on yesterday appointed a Commissioner for the purpose of making to the purchasers of the land in the bill & proceedings mentioned a deed: On consideration of all which, and for reasons appearing to the Court and there being filed with said report a deed made by said Goins to H. H. James, M. M. Butler, B. L. Dulaney, J. S. Anderson, W. A. Sprager, Chas. L. James & B. J. James to said land, and no exceptions being taken to said report and deed, it is adjudged, ordered and decreed that said report and deed be and are hereby confirmed, and that said grantors in said deed pay to said Goins for his services as such Commissioner the sum of five dollars, and after the payment of the same said grantors may withdraw from the files of this Cause said deed and this Cause is stricken from the docket.

A. J. Thomsen ^{for} ~~for~~
vs } ~~three~~ final

Crab Orchard Coal Co.

Entered Chy & B

49946 20 June

9th 1893

J. A. H. H. H.

Enter this
June 9th 1893

H. H. H.

A. J. Thompson for re

vs.

Crab Orchard tract & Iron Co

} In Chan.

This cause comes on again this day to be heard upon the papers formerly read therein and the report of Court. A. M. Goins showing the ~~the~~ collection and proper disbursement of the funds coming in to his ^{hands}, as special Commissioner for the sale of the land in the bill and proceedings mentioned, it is adjudged, ordered and decreed that said report and the disbursement of said funds be and are hereby confirmed; and said A. M. Goins who is hereby appointed a special Court for the purpose will make and execute to the purchasers of the land in the bill & proceedings a deed with covenants of special warranty, and he will report his action to this Court at a future day of the present term, until which time this cause is continued

A. J. Thompson

vs. Decree

Crab O. Co. & Iron Co.

Entered on 173.

Page 444.

June 8, 1893

J. C. Lyall &

Enter this decree,
this June 8, 1893

✓ X 2 Km

'' ''

A. J. Thompson for the Campbell }
vs } In Leham
The Crab Orchard Coal & Iron Co }

This cause came on again
this day to be heard upon the papers
formerly read therein, and the report
of Commr. A. M. Goins filed Oct. 13th
1892, of the sale of the land in the bill
& proceedings mentioned; and it ap-
pearing that said report has been
filed for more than five days before
the first day of this term of the Court,
it is therefore adjudged, ordered
and decreed that said report and
sale be and is hereby confirmed
and this cause is continued

A. J. Thompson for &c

vs { Deane vs 2

Crockerhard Coal &

Deane Company

Entered by O. B.

page 438.

J. A. Syatt 22.

Enter this

March 2 1893

146

1 A. J. Thompson et al. Complt.
2 vs. In Chancery
3 Crab Orchard Coal & Iron Co. Deft.

4 This cause came on this day to be heard
5 upon the Bill of complaint and exhibits filed
6 therewith, and it appearing that process has
7 been duly served on said defendant for
8 more than 15 days before the first day of the
9 term of the court, and in failing to appear
10 and plead or answer, on motion of the
11 complainant, the court doth take his bill
12 for confessed.

13 In consideration of all which and for
14 reasons appearing to the court it is adjudg-
15 ed, ordered and decreed that J. P. Herndon
16 assignee of A. J. Thompson and Flora
17 Thompson, do recover from the defend-
18 ant the sum of \$135-⁰⁰/₁₀₀, with legal interest
19 thereon from the 14th day of Oct., 1891, until
20 paid and the costs of this suit. And it is
21 further adjudged, ordered and decreed that
22 unless said defendant pay said sum of
23 money, its interest and the costs of this suit
24 in 30 days from the rising of this court, then
25 H. M. Goins, who is hereby appointed a special
26 commissioner for the purpose will proceed
27 to sell the land in the bill and proceedings
28 mentioned, or so much thereof as may
29 be necessary to pay the said debt, its interest
30 and the costs of this suit, on a credit of six
31 months, except a sum sufficient to pay
32 the costs, which he will require to be

A. J. Thompson et al

Comptroller

of the Chancery.

The Crab Orchard Coal & Iron Co. Deft.

Your undersigned Special Comr.
begs leave to report, that, after duly ad-
vertising the time, terms, and place of sale,
as was required by the decree entered in
this cause at the June term, 1872, of your
honors court, he offered for sale the land
in the bill and proceedings mentioned, at
public outcry, at the front door of the
court-house on Monday Sept. 17th 1872, that
being a court day, to the highest bid-
der, on a credit of six months except
a sufficient sum to pay the commissions
of sale and the costs of this suit, which
sum was required to be paid in hand.
After much crying and land was
knocked off to H. H. Gurnee, M. M. Butler,
B. L. Dulaney & S. Anderson, W. A. Spriggs,
Chas. E. James and B. J. James for the
sum of \$185.32, this being their bid and
the highest offered. As required by the
terms of said decree and purchase

paid your Comm. in hand \$42.57, the amount necessary to cover the commissions of sale and the costs of this suit.

Your Comm. further reports that for the deferred payment of this sale said W. W. Jamieson, M. M. Butler, B. L. Dulaney, S. S. Anderson, W. A. Sparger, Chas. L. James and B. J. James executed to him their joint note for \$142.45, payable six months after date, and bearing interest from the date of sale.

Your Comm. will again report that the commission arising from this sale and the costs of this suit have been paid, as may be seen from the receipts herewith filed.

All of which is respectfully submitted.

A. M. Cairns.

Special Comm.

A. J. Thompson et al
vs

Orsak Orchard Coal & Iron Co.

\$16.70 Received of A. M. Goins Comr in
above styled Cause Sixteen &
 $\frac{70}{100}$ Dollars my fees in full
in said Cause, Sept 20th 1892
J. A. Hyatt C.

\$15 $\frac{30}{100}$ Received from A. M. Goins Comr
in above styled cause Fifteen &
 $\frac{30}{100}$ dollars our fee as attorneys
in this cause and amount
paid Sergeant City of Bristol
for executing process.

This Sept 20th 1892

Penningson Lewis

\$8 $\frac{82}{100}$ Retained \$8 $\frac{82}{100}$ the commission
arising from the sale of the
land in the above cause.
This Sept, 20th 1892

A. M. Goins
Comr.

A. J. Thompson et al
vs. Conn's Reports,
Crab Orchard Coal
& Iron Company.

Filed Oct 13 1892
J. H. [unclear]

A. J. Thompson & al. - - - Compltts.

vs. { In Chancery.

Crab Orchard Coal & Iron Co., Defts.

To the Hon. H. S. K. Morrison, Judge
of the Circuit Court of Lee County, Va.:

The undersigned here reports that
at the June term, 1892, of your hon-
or's court he was appointed a
Special Commr. for the purpose of
selling the land in the bill and
proceeding mentioned in this cause;
That at the September term, 1892,
he sold said land to the parties,
on the terms, and in the manner
reported by the undersigned in
his former report filed in this
cause on the 13th day of Oct., 1892.

The undersigned now here fur-
ther reports that the deferred pay-
ment of said purchase money
for which said purchasers ex-
ecuted their bond for the sum of
\$142.45, payable six months after
date, and bearing interest from the
date of sale, has been fully paid
to him by said purchasers.

The undersigned also here fur-
ther reports that after ~~receiving~~ ^{receiving}
said \$142.45 and interest, as above

stated, that he paid the same over
to E. H. Pennington, Atty. for said
Complainants, and took his receipt
for the same, which receipt is here-
with filed, marked "A," as part
of this report.

All of which is respectfully
submitted. This May 20th, 1893,

A. M. Givins,
Special Comm.

May 15th

1893



A. M. Givins Comm. H. H. James Clerk for

One hundred & forty-eight & 67/100 Dollars

Bal. due John P. Hendon assignee of A. J. Thompson
wife for land sold to Crab Orchard Coal & Iron Co.

\$148.69

E. H. Pennington
Atty.

A. J. Thompson & al.

vs. Comr's report.

Crab Orchard C. & I. Co.

Filed May 20, 1893

A. J. Thompson et al. . . . Complt.
vs. { In Chancery.

The Crab Orchard Coal & Iron Co., Deft.

To the Hon. H. S. K. Morison, Judge
of the Circuit Court of Lee County, Va.:

The undersigned Special Comr.
begs leave to report, that, in pursu-
ance to a decree entered in the
above styled cause on the 8th
day of June, 1893, appointing
him a special Comr. for the
purpose of making and executing
to the purchasers of the land in the
bill and proceedings mentioned in this
cause a deed with covenants of special
warranty, he has complied with
the order of the court and has
made said deed as directed by
said order, and the same is
filed herewith marked "D."

All of which is respectfully submit-
ted, this June 9th 1893.

A. M. Gomis,
Special Comr.

A. J. Thompson & al.

vs { Comrs Report of
Deed.

Crab Orchard Coal & S. Co

Filed June 9th 1893.

This deed made this the 17th day of February, 1892, by R. J. Thompson and Flora J. his wife of the County of Lee and State of Virginia, party of the first-part to the Crab Orchard Coal and Iron company a corporation organized and existing under the laws of Virginia of the second part:

Witnesseth that whereas here-
tofore, to wit: on the 14th day of Oct,
1890 said parties, ^{of the first-part} sold, and conveyed
unto said second party for the sum
of Two hundred and seventy dollars,
[one half of which sum was on the
day and year last aforesaid in
hand paid, and the other half with
legal interest thereon from the day of
1890, to be paid on the
day of 189], a one undivided
ninth interest in the ^{real} estate of
Elijah Pennington dec'd. situated, being
and lying in Lee County, Va. and
in the Crab Orchard County; and
whereas said parties of the first-part
at the time they made this said
deed reserved a vendor's lien on
said one-ninth interest in the
real estate aforesaid, to secure
the payment of said one-half of the
purchase price of said land unpaid
at the time of making said deed; and
whereas said deferred payment now
being fully paid by said account

partly to John P. Herndon assignee
of said deferred payment, the said
parties of the first part do each
each of them doth hereby for ever
release and quit said lien retained
as aforesaid unto said Leab Or-
chard Coal and Iron Company

Witness the following signatures
and seals the day & year first-above
written.

A. J. Thompson (seal)
Flora Thompson (seal)

Virginia

Lee County, to wit:

I Francis M. Parsons a
Justice of the Peace in and for the
County of Lee and State of Virginia
do hereby certify that A. J. Thomp-
son and Flora Thompson whose
names are signed to the writing above
bearing date on the 17th day of Feb.,
1892 have acknowledged the same
before me in my County aforesaid.
Given under my hand this the
19 day of February 1892.

Francis M. Parsons, J.P.

Leah Orchard Court & House

From } Steel

A. J. Thompson ^{of}

KNOW ALL MEN BY THESE PRESENTS, That we

A. M. Gains
and J. A. G. Hyatt
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Five*
Hundred dollars, to the payment whereof, well and truly
to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our
and each of our heirs, executors and administrators, jointly and severally, firmly by these
presents, hereby waiving the benefit of our homestead exemptions as to this obligation,
and any claim, right, or privilege to discharge any liability arising under this bond, or by
virtue of said office or trust, in any currency, funds, counter claims or offsets other than
legal-tender currency of United States. Sealed with our seals, and dated *19th* day
of *April*, one thousand eight hundred and *Nineteen*

The Condition of The Above Obligation is Such, That if the above bound
A. M. Gains
shall faithfully perform the duties of *his* office or trust, as *Commissioner*
under a decree of the Circuit Court of the County of Lee, pronounced on the *9th*
day of *June*, 18*92*, in the suit therein depending
under the name and style of *A. J. Thompson et al* Plaintiff
vs. *The Crab Orchard Cultivators* Defendant
and properly account for all sums of money *he* may receive as
such *Commissioner*

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the
presence of

A. M. Gains (SEAL.)
J. A. G. Hyatt (SEAL.)
(SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day
suret on the above bond, made oath before me J. A. G. Hyatt, Clerk of the Circuit
Court of the County of Lee, that
estate after the payment of all just debts, and those
for which bound as securit for others, and expect to have
to pay worth the sum of
dollars.

Given under my hand this day of 18
Teste: Clerk.

F. J. Thompson

vs. Bond

Exh. Grand Jurors

Filed July 19th 1892

D. S. Hyatt

DEPOSITED BY

— IN —

The National Bank of Bristol.

Bristol, Tenn.,

, 189

DOLLARS CENTS

Mr James says it is
near the time to bring
suit at the March
Term as the Rule
day is past. I think
they will be able
to pay off all of
the debt by or
before the next term
of court after March

Currency,
Specie,
Checks,

Enter all Checks Separately.

THE NATIONAL BANK OF BRISTOL.

Bristol, Tenn.,

12/23

1891

Mr Herndon

We return your
note on James Co. They The
List claim deed you send is not
properly made the parties that
sign it must do so before
a Notary Public or the clerk
of your court & must have
the seal attached and it is
not properly written you had
best get some one that knows
how to write it for you
The Mr James say they will
not have the money to pay it
for 30 days yet you

J. C. Anderson

WM. McGEORGE, President,
PHILADELPHIA, PA.

W. W. JAMES, Secretary and General Manager,
CITY OF BRISTOL, VA.

W. A. SPARGER, Treasurer,
BRISTOL, TENN.

— OFFICE OF —

The Crab Orchard Coal and Iron Company,

No. 49, James Street,

City of Bristol, Va.,

Nov 12, 1891

Mr. L. S. Herndon

Bryden Lee Co Va

Yours to hand, I reply
that - before the State is paid
Mr. A. I. Thompson & Wife much
execute a Release deed to our
Company of their $\frac{1}{9}$ th interest
in the Bryden Lee Co's Land
which was sold & conveyed to
us on the 15th day of October
1891 - said land being in the
Crab Orchard Lee County Virginia
and that the purchase money
therefor has been fully paid
to us for our $\frac{1}{9}$ th interest in
said land

You can get this release
deed & send it with the note
to the National Bank of Bristol
for payment - & I will send

Here a check for the amount
This arrangement will save
you any cash or trouble to
get your money. Yours &c.

W. H. Jones Secy.
C. & I. Co.

The Commonwealth of Virginia.

Sheriff of the City of Bristol Va
TO THE SHERIFF OF LEE COUNTY GREETING:

We Command You to Summon

The Crab Orchard Coal
& Iron Company, a corporation
organized and existing under the laws
of the State of Virginia

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the ^{third} ~~first~~ Monday in
May next, being rule day to answer a bill in Chancery exhibited in our said Court against

and *it* by *Andrew J. Thompson*
and Flora Thompson his wife who sue
for the benefit of J. S. Herndon

And have then and there this writ Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse. This *21st*
day of *April* 1892, in the 116 year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt Clerk.

1949

A. J. Thompson & Co

vs 3 Spain
3 Chey

Crab Orchard Coal & Iron Co

To 2nd May Rules 1892

Executed this the 26th day of April 1892
an the Crab Orchard Coal and Iron
Company a corporation formed and existing
under and by virtue of the laws of the
State of Virginia by delivering an office
copy of the within Summons to W. W.
James Secretary and general manager
of said company in the corporation
of the city of Bristol Virginia the said
W. W. James residing therein

W. J. Cox

Sergeant of the corporation
of the city of Bristol Va